

1 BILL NO. Z-85- 01-29

2 ZONING MAP ORDINANCE NO. Z-

3 AN ORDINANCE amending the City of
4 Fort Wayne Zoning Map No. F-35.

5 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE,
6 INDIANA:

7 SECTION 1. That the area described as follows is hereby
8 designated an M-1 (Light Industrial) District under the terms of
9 Chapter 33 of the Code of the City of Fort Wayne, Indiana of 1974:

10 A tract of land, recorded as the North 2.52 acres of the
11 West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 32,
Township 30 North, Range 12 East, Allen County, Indiana,
more particularly described as follows, to-wit:

12 Beginning at the Northwest corner of said Southwest $\frac{1}{4}$;
13 thence East, on and along the North line of said Southwest
14 $\frac{1}{4}$, a distance of 660.0 feet to the Northeast corner of
the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of said Southwest $\frac{1}{4}$; thence
15 Southerly, by an interior angle of 90 degrees 19 minutes
and parallel to the West line of said Southwest $\frac{1}{4}$ on and
16 along the East line of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of said
Southwest $\frac{1}{4}$ a distance of 163.0 feet; thence West and
parallel to said North line, a distance of 660.0 feet to
17 said West line; thence Northerly, on and along said West
line, being also the centerline of Smith Road, a distance
18 of 163.0 feet to the point of beginning, containing 2.470
acres of land, subject to legal right-of-way for Smith Road

19 and the symbols of the City of Fort Wayne Zoning Map No. F-35, as established
20 by Section 11 of Chapter 33 of the Code of the City of Fort Wayne, Indiana
21 are hereby changed accordingly.

22 SECTION 2. That this Ordinance shall be in full force and effect
23 from and after its passage and approval by the Mayor.

24
25
26 Charles B. Redd
COUNCILMEMBER

27
28 APPROVED AS TO FORM AND LEGALITY:

29 Bruce O. Boxberger
30 BRUCE O. BOXBERGER, CITY ATTORNEY
31
32

DATE:

AYES

NAYS

ABSTAINED

ABSENT

TO-WIT:

TOTAL VOTES

BRADBURY

BURNS

EISBART

GiaQUINTA

HENRY

REDD

SCHMIDT

STIER

TALARICO

DATE :

SANDRA E. KENNEDY, CITY CLERK

(SPECIAL) (ZONING MAP) ORDINANCE ~~(RESOLUTION)~~ NO.

on the 14th day of May, 1965.

ATTEST:

(SEAL)

SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana,
on the 15th day of May, 1965

at the hour of 2:45 o'clock PM, E.S.T.

SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____,
19_____, at the hour of _____ o'clock _____ .M., E.S.T.

WIN MOSES, JR., MAYOR

RECEIPT

COMMUNITY DEVELOPMENT & PLANNING

No 10836

FT. WAYNE, IND., 11/27 1984RECEIVED FROM Carolyn E. Jimms Class \$ 50.00THE SUM OF Fifty and 00/100 DOLLARSON ACCOUNT OF ~~to~~ Smith Road
regarding from RB & m-1 to m-1

cash

AUTHORIZED SIGNATURE
Kathie Schaeffer

THIS IS TO BE FILED IN DUPLICATE

RECEIPT NO. _____

DATE FILED _____

INTENDED USE _____

I/We Carolyn K Elam & Simon E Elam
(Applicant's Name or Names)

do hereby petition your Honorable Body to amend the Zoning Map of Fort Wayne Indiana, by reclassifying from a/an R-B & M-1 District to a/an M-1 District the property described as follows:

See attached

(Legal Description) If additional space is needed, use reverse side.
8101 Smith Road

(General Description for Planning Staff Use Only)

I/We, the undersigned, certify that I am/We are the owner(s) of fifty-one percentum (51%) or more of the property described in this petition.

<u>Carolyn Elam</u>	<u>6805 Bradbury Ave</u>	
	<u>Fort Wayne, Ind</u>	
	<u>46809</u>	
(Name)	(Address)	(Signature)

(If additional space is needed, use reverse side.)

Legal Description checked by _____

NOTE FOLLOWING RULES

All requests for deferrals, continuances, withdrawals, or request that the ordinance be taken under advisement shall be filed in writing and be submitted to the City Plan Commission prior to the legal notice pertaining to the ordinance being sent to the newspaper for legal publication. If the request for deferral, continuance or request that ordinances be taken under advisement is received prior to the publication of the legal ad being published the head of the Plan Commission staff shall not put the matter on the agenda for the meeting at which it was to be considered. The Plan Commission staff will not accept request from petitioners for deferrals, continuances, withdrawals, or requests that an ordinance be taken under advisement, after the legal notice of said ordinance is forwarded to the newspaper for legal publication but shall schedule the matter for hearing before the City Plan Commission. (FILING FEE \$50.00)

Name and address of the preparer, attorney or agent.
CAROLYN K ELAM 6805 Bradbury Ave 747-6824
(Name) (Address & Zip Code) (Telephone Number)

COMMUNITY DEVELOPMENT AND PLANNING / Division of Long Range Planning & Zoning and (CITY PLAN COMMISSION) / Room #830, City-County Building, One Main Street, Fort Wayne, IN 46802 (PHONE: 219/423-7571)

Applicants, Property owners and preparer shall be notified of the Public Hearing approximately ten (10) days prior to the meeting.

MORTGAGE

THIS MORTGAGE is made this 13th day of December 1976, between the Mortgagor, **Simms E. Elam and Carolyn K. Elam, Husband and Wife, and over the age of eighteen (18) years** (herein "Borrower"), and the Mortgagee, **Waterfield Mortgage Company, Incorporated**, a corporation organized and existing under the laws of **the State of Indiana**, whose address is **123 West Berry, Fort Wayne, Indiana** (herein "Lender").

WHEREAS, Borrower is indebted to Lender in the principal sum of **Thirty one thousand two hundred fifty and no/100** Dollars, which indebtedness is evidenced by Borrower's note dated **December 13, 1976** (herein "Note"), providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on **December 1, 2006**;

To SECURE to Lender (a) the repayment of the indebtedness evidenced by the Note, with interest thereon, the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage, and the performance of the covenants and agreements of Borrower herein contained, and (b) the repayment of any future advances, with interest thereon, made to Borrower by Lender pursuant to paragraph 21 hereof (herein "Future Advances"), Borrower does hereby mortgage, grant and convey to Lender the following described property located in the County of **Allen**, State of Indiana:

A tract of land, recorded as the North 2.52 acres of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 32, Township 30 North, Range 12 East, Allen County, Indiana, more particularly described as follows, to wit:

Beginning at the Northwest corner of said Southwest $\frac{1}{4}$; thence East, on and along the North line of said Southwest $\frac{1}{4}$, a distance of 660.0 feet to the Northeast corner of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of said Southwest $\frac{1}{4}$; thence Southerly, by an interior angle of 90 degrees 19 minutes and parallel to the West line of said Southwest $\frac{1}{4}$ on and along the East line of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of said Southwest $\frac{1}{4}$ a distance of 163.0 feet; thence West and parallel to said North line, a distance of 660.0 feet to said West line; thence Northerly, on and along said West line, being also the centerline of Smith Road, a distance of 163.0 feet to the point of beginning, containing 2.470 acres of land, subject to legal right-of-way for Smith Road.

which has the address of **8101 Smith Road**, **Fort Wayne**,
[Street] [City]
Indiana 46809 (herein "Property Address");
[State and Zip Code]

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are herein referred to as the "Property".

Borrower covenants that Borrower is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, that the Property is unencumbered, and that Borrower will warrant and defend generally the title to the Property against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

Division of Community Development & Planning

BRIEF TITLE

Zoning Ordinance Amendment

APPROVAL DEADLINE

REASON

DETAILS

Specific Location and/or Address

8101 Smith Road

Reason for Project

To allow for construction of a pole building to house a truck tractor and to use as a repair business for truck tractors.

Discussion (Including relationship to other Council actions)

This petition was deferred from January 21, 1985 public hearing because the petitioner or a representative did not appear.

February 25, 1985 - Public Hearing

Mrs. Carolyn Elam, petitioner, 8101 Smith Road stated that she wanted the rezoning in order to construct a building to house her husband's truck tractor and perhaps in the future to allow for repairing truck tractors in the structure. She stated she wanted to place the structure on the portion that is presently zoned RB so that it would not be close to the neighbors.

George Martin, legal counsel for the Commission, asked if she presently had enough room in the property already zoned M-1 to build.

She stated she did but wanted to keep in the property on the north in order to protect her neighbors from the business.

Mike Harris, 8114 Smith Road, stated that they purchased their property a year ago in

POSITIONS

RECOMMENDATIONS

Sponsor

City Plan Commission

Area Affected

City Wide

Other Areas

Applicants/
Proponents

Applicant(s)

Carolyn & Simms Elam

City Department

Other

Opponents

Groups or Individuals

Mike Harris / 8114 Smith Rd.
Rose Diem / 8113 Smith Road
Basis of Opposition

- devalue property in area
- damaging to adjacent property

Staff
Recommendation☐ For☒ Against

Reason Against

- adverse impact on area
- other suitable locations for this type of use
- spot zoning

Board or
Commission
Recommendation

By

☐ For☒ Against☐ No Action Taken

☐ For with revisions to conditions
(See Details column for conditions)

CITY COUNCIL
ACTIONS
(For Council
use only)☐ Pass☐ Other☐ Pass (as amended)☐ Hold☐ Council Sub.☐ Do not pass

DETAILS

January. He stated that they were opposed to the rezoning. He stated they have had a tractor in disrepair sitting on the property for several years. He stated the tractor has been tagged and still has not been removed. He felt that if they were allowed to rezone they would not maintain any business on the property any better. He stated he was not in favor of mixing the residential zoning with the industrial.

Rose Diem, 8113 Smith Road, stated that she was opposed to the rezoning. She stated she was adjacent to the property in question and that they already have a runoff problem. She stated that in order to build they would have to do some filling and this would cause even more of a runoff problem onto her property.

Ms. Elam stated that they have invested some \$10,000 in this property. She stated that she is aware of the water problem and they have tried to correct some of the runoff problems.

There was no one else present who wished to speak in favor of or in opposition to the proposed rezoning.

March 4, 1985 - Business Meeting

Motion to deny the request was made and carried.

Of the eight (8) members present all voted in favor of denial.

POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No <input type="checkbox"/> Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start

Date November 27, 1984

Projected Completion or Occupancy

Date April 10, 1985

Fact Sheet Prepared by

Date April 10, 1985

Pat Biancaniello

Reviewed by

Date April 10, 1985

Gary F. Baeten

Reference or Case Number

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on January 22, 1985, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-85-01-29; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on February 25, 1985;

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO NOT PASS recommendation based on the Commission's following "Finding of Facts":

(1) the grant will be injurious to the public health, safety, morals and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will be affected in a substantially adverse manner;

(3) the need for the rezoning does not arise from conditions peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

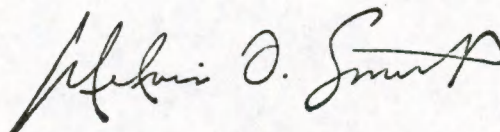
(4) the strict application of the terms of the zoning ordinance will not constitute an unusual and unnecessary hardship to this property;

(5) the grant interferes substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law; and,

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held March 4, 1985.

Certified and signed this
16th day of April 1985.



Melvin O. Smith
Secretary

PROPOSAL:

Carolyn & Simon Elan request reclassification from RB and M1 Districts to M-1 District.

GENERAL INFORMATION:

Location:	8101 Smith Road
Legal Description:	See File
Existing Zoning:	R-B & M-1
Size of Property:	2.470 acres, <u>±</u>
Surrounding Land Use & Zoning:	North & west are in the county, and are not subject to City Zoning classifications. South is M1 (Light Industrial); East is RB (Residential B)
Reason For Request:	Unknown
Compatibility With Comprehensive Plan:	The area in question is located in the Southwest Sector of the Outer Ring of the Comprehensive Plan. The goal for this area is "to limit growth to areas which can be accomodated by existing facilities." The proposed land use pattern shows low density residential for the area in question. It is stated that residential & recreational land uses along Huntington Road should be protected and preserved and that the area around Baer Field is suitable for industrial development.

SPECIAL INFORMATION:

Physical Characteristics:	Property is located in the outer fringe of the incorporated city limits. The surrounding half mile radius would include a county residential subdivision and a private club.
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PLANNING STAFF DISCUSSION:

Proximity of this parcel of land to the residential subdivision, and to the Country Club would indicate that this property would best be suited to the zoned residential uses.

We believe that other locations which have the requested M-1 zoning classification would be better developed for light industrial uses.

Page two

Currently land immediately south of the subject property is zoned M-1 and M-2, but is used for residential purposes. We would suggest that during the zoning update these industrial districts at this location be zoned same residential as the surrounding lands.

Planning staff feels that this is an appropriate location for a buffer zone for office use as a transition between industrial and residential districts. We are proposing such a zoning district in the zoning update.

RECOMMENDATION:

Denial

Reasons:

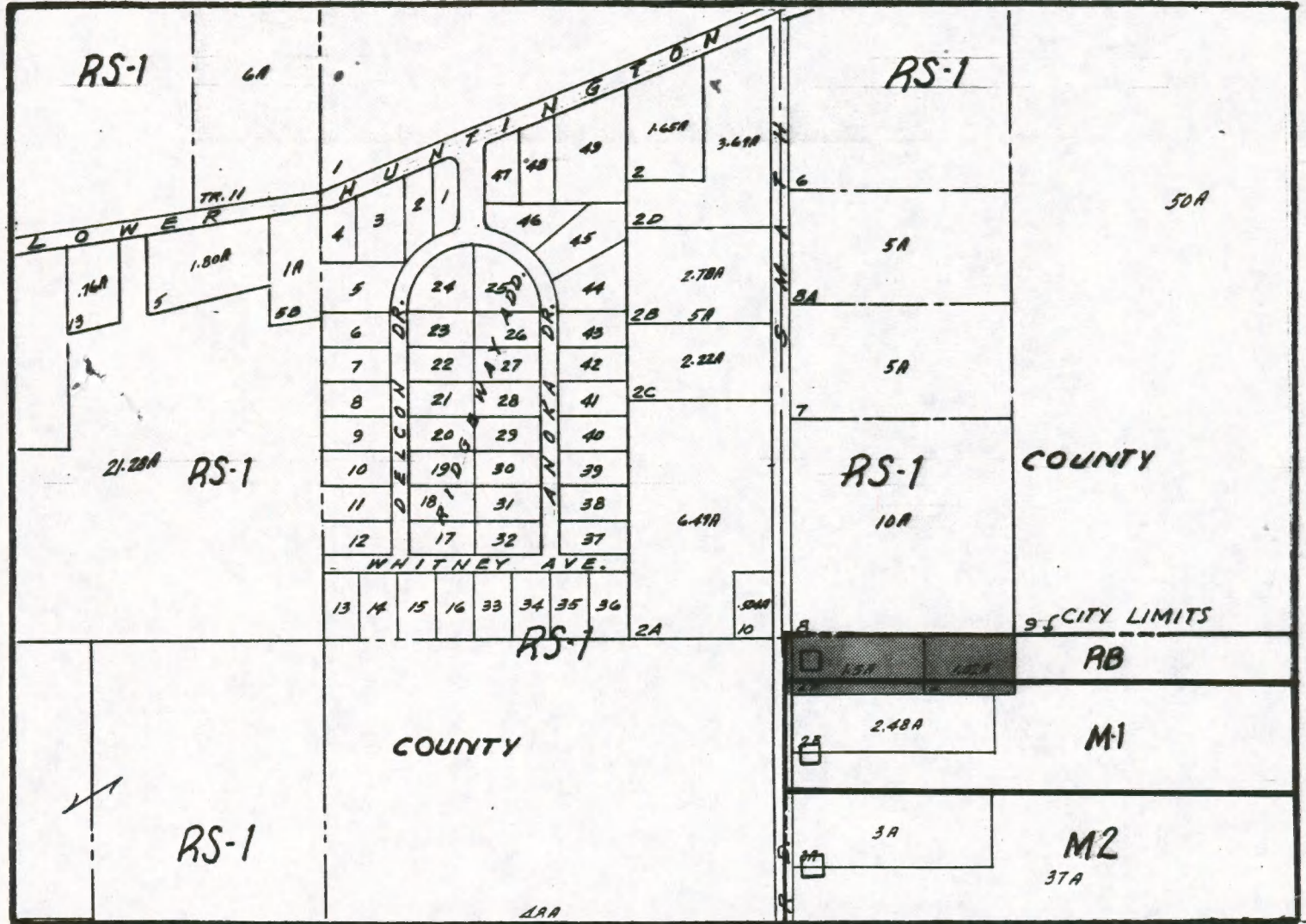
- 1) Approval would adversely impact the surrounding area.
- 2) Other locations are available that would be more suitable for light industrial use.
- 3) Approval would make it difficult to deny similar petitions.
- 4) Its approval would enlarge the existing industrial spot zone.

ZONING PETITION #106

A PETITION TO AMEND THE ZONING MAP BY RECLASSIFYING THE DESCRIBED PROPERTY FROM AN R-B & M-1 DISTRICT TO A M-1 DISTRICT.

MAP NO. F-35

COUNCILMANIC DISTRICT NO. 4



Zoning:

RB RESIDENCE B
M1 LIGHT INDUSTRY
RS-1 RESIDENTIAL SUBURBAN

Land Use:

☐ SINGLE FAMILY

BILL NO. Z-85-01-29

Scale: NONE

Date: 1-3-85
-18-



ORIGINAL

ORIGINAL

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE Zoning Ordinance Amendment

3-85-a-29

DEPARTMENT REQUESTING ORDINANCE Land Use Management - CD&P

SYNOPSIS OF ORDINANCE Property containing 2.470 acres of land, commonly known

as 8101 Smith Road.

Councilmanic District: 4

EFFECT OF PASSAGE Property is now zoned RB - Suburban Residential and M-1 - Light Industrial. Property will become entirely M-1 - Light Industrial.

EFFECT OF NON-PASSAGE Property will remain RB & M-1.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

(ASSIGN TO COMMITTEE (J.N.)) _____

BILL NO. Z-85-01-29

REPORT OF THE COMMITTEE ON REGULATIONS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending the City of
Fort Wayne Zoning Map No. F-35

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)
(~~RESOLUTION~~) _____

YES

NO

CHARLES B. REDD
CHAIRMAN

Charles B. Redd

JANET G. BRADBURY
VICE CHAIRWOMAN

Janet G. Bradbury

JAMES S. STIER

James S. Stier

BEN A. EISBART

Ben A. Eisbart

DONALD J. SCHMIDT

Donald J. Schmidt

CONCURRED IN 5-14-85

SANDRA E. KENNEDY
CITY CLERK